

COUNTY OF MARION

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STATE OF INDIANA
DEPT. OF INSURANCE

IN THE MATTER OF:

Nicole Bozeman

Respondent

Type of Agency Action: Enforcement)

CAUSE NO.: DOI-2210-002138
21736-AG22-0901-153

FINAL ORDER

On February 24, 2023, the Administrative Law Judge, Brian D Hahn, filed his Findings of Fact, Conclusions of Law and NonFinal Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and NonFinal Order and Notice of Filing NonFinal Order on Respondent by emailing the same to her email address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and NonFinal Order, and more than eighteen (18) days have elapsed.

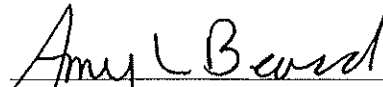
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and NonFinal Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's resident producer license number 3455525 is **Permanently Revoked.**

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 10 day of April, 2023.



Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Nicole Bozeman, Respondent – served by email at bnicnac@gmail.com

Samantha Aldridge, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
saldridge@idoi.in.gov

NON-FINAL ORDER

Pursuant to IC 4-21.5 this order is not final and shall be presented to the ultimate authority for issuance of a final order.



FILED: February 24, 2023

STATE OF INDIANA OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DOI-2210-002138

Underlying/State Agency Action No.: 21736-AG22-0901-153

FINAL AGENCY AUTHORITY: Commissioner of the Department of Insurance

Indiana Department of Insurance,
Petitioner,

v.

Nicole Bozeman,
Respondent.

Type of Agency Action: Enforcement

License Number: 3455525

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND NON-FINAL ORDER

An evidentiary hearing was held on this matter on November 16, 2022, at 9:00 am EST via telephonic conference. Administrative Law Judge ("ALJ") Brian D. Hahn, having heard, reviewed, and considered all of the evidence, now renders a decision concerning the appeal of Nicole Bozeman ("Petitioner").

Petitioner appeared telephonically without counsel and proceeded self-represented. The Department of Insurance ("Respondent") was represented by counsel, Samantha Aldridge.

Petitioner was duly sworn and testified on her own behalf in the narrative style. Petitioner offered no exhibits. Respondent called Sara Tolliver, Investigator for the Indiana Department of Insurance Enforcement Unit, as a witness and Respondent offered three (3) exhibits that were admitted into the record and identified as Respondent's Exhibits ("RX") 1 through 3.

- RX 1 is a seven (7) page document encompassing Respondent's 2019 application for an Indiana resident producer license submitted on July 12, 2019.

- Admitted over objection as to foundation.
- RX 2 is a two (2) page document entitled Chronological Case Summary for Case No.: 79D05-0505-FD-000319, involving a charge of perjury, a class D felony, and false informing, a class A misdemeanor, filed on May 29, 2008 in the Tippecanoe Superior Court.
 - Admitted by stipulation.
- RX 3 is a seven (7) page document pertaining to a judgment entered in a criminal case out of the United States District Court for the Northern District of Illinois in Case No.: 1:07-CR-00614 setting forth the terms and conditions of probation and judgment of conviction and sentence entered on October 7, 2009 for felony conspiracy to possess with intent to distribute heroin.
 - Admitted by stipulation.

Based upon the evidence presented at said hearing, the ALJ now makes and issues the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT¹

1. Respondent was issued resident insurance producer license #3455525 on July 15, 2019. (Respondent Test.; Tolliver Test., RX 1)
2. Petitioner initiated an investigation into Respondent based upon an inquiry from another state wherein Respondent was also applying for a license as to why Petitioner failed to issue 18 USCS §1033 waiver (hereinafter "§1033 waiver"). (Tolliver Test.)
3. Petitioner discovered that Respondent was convicted of Conspiracy to Possess with Intent to Distribute Heroin, a Felony, by the United States District Court for the Northern District of Illinois on or about October 7, 2009. (Tolliver Test.; RX 2; RX 3)
4. Petitioner discovered that Respondent was charged with committing perjury, a Class D felony, and false informing, a Class A misdemeanor in Tippecanoe County cause #79D05-0805-FD-000319, which remain pending against Respondent. (Tolliver Test.; RX 2; RX3)
5. The application Petitioner submitted for a resident produced license had a section entitled, "Questions" that contained a question requesting the following:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?

You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving

¹ Findings of fact that can be construed as conclusions of law and conclusions of law that can be construed as findings of fact are hereby incorporated herein as such by reference.

while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license.

You may also exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court.) (RX 1; Testimony of Petitioner)

6. Respondent answered "No" to the foregoing question regarding ever being convicted of a misdemeanor. (RX1; Tolliver Test.)
7. The application Petitioner submitted for a resident produced license has a section entitled, "Questions" that contained a question requesting the following:

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?

You may also exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court.) (RX 1; Testimony of Petitioner)

8. Respondent answered "No" to the foregoing question regarding ever being convicted of a felony. (RX1; Tolliver Test.)
9. Respondent disclosed her criminal history to her employer and relied upon her employer to submit accurate information in conjunction with her application for a resident producer license. (Respondent Test.)

CONCLUSIONS OF LAW

1. The Office of Administrative Law Proceedings ("OALP") has jurisdiction over both the subject matter and the parties to this action and the Commissioner of the Department of Insurance ("Commissioner") has final authority. IC 27-1-15.6-12(d); IC 4-15-10.5-12; IC 4-15-10.5-13.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, see IC 4-21.5-3. IC 27-1-15.6-12(d).
3. Petitioner seeks to permanently revoke Respondent's resident producer license number 3455525.
4. The Commissioner "may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions..." to an individual who has provided "...incorrect, misleading, incomplete, or materially untrue information in a license application." IC 27-1-15.6-12(b)(1).
5. A party requesting an agency act has the burden of persuasion and the burden of going forward. Indiana Code 4-21.5-3-14(c). Petitioner requests that the Commissioner of the

Department of Insurance permanently revoke Respondent's resident producer license, therefore Petitioner bears the burden of proof.

6. Proceedings held before an ALJ are *de novo*, which means the ALJ does not—and may not—defer to an agency's initial determination. Indiana Code § 4-21.5-3-14(d); *Ind. Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993). Instead, in its role as factfinder, the ALJ must independently weigh the evidence in the record and may base findings and conclusions only upon that record. *Id.* At a minimum, the ALJ's findings "...must be based upon the kind of evidence that is substantial and reliable." Indiana Code § 4-21.5-3-27(d). "[S]ubstantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support the decision..." *St. Charles Tower, Inc. v. Bd. of Zoning Appeals*, 873 N.E.2d 598, 601 (Ind. 2007).
7. A hearing was held to determine the reasonableness of the Petitioner's request pursuant to Indiana Code 27-1-15.6-12(d).
8. The Commissioner may use discretion in deciding whether to issue or revoke a license and may weigh such factors as the length of time that has passed since the felony conviction, the nature of the crime from which the felony conviction arose, Respondent's credibility, remedial activity that Respondent has engaged in, and Respondent's rehabilitation. See prior DOI appeals: 15969-AD17-0125-016, 20100-AD20-1215-164, 1885-AD20-0109-017.
9. While Respondent testified that she has changed her life since her conviction, she provided no specific examples as to what she has done to rehabilitate herself.
10. Respondent regretted that her criminal conviction history was not included in her application, however, she maintained that any oversight in reporting was due to her employer in failing to disclose her criminal conviction history in her application for an insurance producer license.
11. What is especially concerning is that the felony charge of perjury and the misdemeanor charge of false informing remain pending against Respondent. Respondent provided no testimony regarding why these charges remain pending against her or what steps she is taking to have it resolved.
12. Applicants such as Respondent are ultimately responsible for ensuring that the contents of their applications for resident producer licenses are accurate.
13. Given the foregoing reasons, it would not be unreasonable for the Commissioner to permanently revoke Respondent's resident producer license because of the felony conviction and the pending charges involving dishonesty.
14. Petitioner has met its burden of proving that the Commissioner's decision revoke Respondent's resident producer license was reasonable.

NON-FINAL ORDER

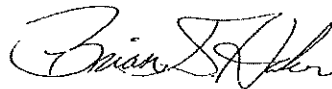
In consideration of the foregoing, Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of the Department of Insurance** that the Indiana Department of Insurance's request to permanently revoke Nicole Bozeman's resident producer license number 3455525 be **GRANTED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of the Department of Insurance on February 24, 2023. In accordance with Ind. Code § 4-15-10.5-12(b), the OALP's order disposing of this matter is not final. This non-final order is subject to review by the Commissioner of Insurance.

This matter is now before the ultimate authority, the Commissioner of Insurance who has the final authority over this matter and shall review this order and issue a final order to all parties.

To preserve an objection to this order for judicial review, the Parties must object to the order in writing that: 1) Identifies the basis for the objection with reasonable particularity; and 2) Is filed with the ultimate authority, the Commissioner of the Department of Insurance, within fifteen (15) days from the date of this Order. Indiana Code 4-21.5-3-29. For provisions on how to compute days see Ind. Code § 4-21.5-3-2.

Any questions regarding this matter may now be directed to Dawn Bopp at dbopp@idoi.in.gov.



Brian D. Hahn, Administrative Law Judge
Office of Administrative Law Proceedings

Distributed to Parties:

Indiana Department of Insurance – Petitioner, served by Counsel Samantha Aldridge by E-Mail at saldridge@idoi.in.gov

Nicole Bozeman – Respondent, served personally by E-Mail at bnicnac@gmail.com

Additional Distribution to Non-Party:

IDOI Commissioner – Ultimate Authority and served by Dawn Bopp at DBopp@idoi.in.gov

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

DOI CAUSE NO.: 21736-AG22-0901-153
ADMINISTRATIVE CAUSE NO.: DOI-2210-002138

IN THE MATTER OF:)
)
Nicole Bozeman)
5701 Hemlock Ave. #B2)
Gary, IN 46403)
)
 Respondent.)
)
Producer License #: 3455525)
)
Type of Agency Action: Enforcement)

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

The Administrative Law Judge (“ALJ”), having considered and reviewed all of the evidence, will now render a decision in the matter of Nicole Bozeman (“Respondent”). This matter came to be heard by the ALJ Brian Hahn on November 16, 2022 at 9:00 a.m. via audio conferencing at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana,

The Enforcement Division of the Indiana Department of Insurance (“Department”) was represented by counsel, Samantha Aldridge. Petitioner appeared telephonically and without counsel. Testimony was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact and Conclusions of Law and issues the Recommended Order.

FINDINGS OF FACT

1. Respondent is a resident insurance producer, holder license #3455525 since July 15, 2019.
2. Hearing was held on November 16, 2022 regarding Respondent's license.
3. The Department's investigation into Respondent started with an inquiry from Respondent as to why the Department had not issued Respondent a 18 USCS §1033 waiver ("§1033 waiver"). (Hearing Transcript p. 15)
4. Respondent did not disclose her criminal history on her July 15, 2019 application for licensure or submit a required §1033 waiver application. (Department's Exhibit 1, Hearing Transcript p. 15)
5. Respondent answered "No" to the questions on the July 15, 2019 application that asks if she is currently charged with committing a misdemeanor and if she is currently charged with committing a felony. (Department's Exhibit 1)
6. Respondent is currently charged with committing Perjury, a D Felony and False Informing, a Class A Misdemeanor in Tippecanoe County cause #79D05-0805-FD-000319. (Department's Exhibit 2).
7. Respondent answered "No" to the question on her July 15, 2019 application that asks if she has been convicted of a felony. (Department's Exhibit 1).
8. Respondent was convicted of Conspiracy to Possess with Intent to Distribute Heroin, a Felony, by the United States District Court for the Northern District of Illinois on or about October 7, 2009. (Department's Exhibit 3)

9. Respondent attested to the accuracy of the contents of her July 15, 2019 application for resident producer licensure. (Department's Exhibit 1, Hearing Transcript p. 18)

10. Respondent is ultimately responsible for the contents of her application. (Hearing Transcript p. 18)

11. Respondent did not admit exhibits at the hearing.

12. The Department admitted three (3) exhibits at the hearing. Department's Exhibit 1 is the Respondent's July 12, 2019 resident producer application. Department's Exhibit 2 is the Chronological Case Summary for Respondent's cause no. 79D05-0805-FD-000319. Department's Exhibit 3 is Respondent's federal conviction order in case number 07 CR 617-12.

13. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance ("Commissioner") has jurisdiction over both the subject matter and the parties to this action.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.

3. Indiana Code § 27-1-15.6-12(b) authorizes the Commissioner to permanently revoke an insurance producer license, due to a number of factors.

4. Indiana Code § 27-1-15.6-12(b)(1) authorizes the Commissioner to permanently revoke an insurance producer's license for providing incorrect, misleading, incomplete, materially untrue information in a license application.

5. Indiana Code § 27-1-15.6-12(b)(6), authorizes the Commissioner to permanently revoke an insurance producer license for having been convicted of a felony.

6. Indiana Code § 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. The Department requests the Commissioner revoke Respondent's resident producer license.

7. The Department has met its burden of showing Respondent violated Indiana Codes §§ 27-1-15.6-12(b)(1) and 27-1-15.6-12(b)(6), and that Respondent's resident producer license should be permanently revoked.

8. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner the following:

1. Respondent's resident insurance producer license #3455525 be permanently revoked, effective the date the Final Order is issued.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2023.

Brian D. Hahn
Administrative Law Judge

Distribution:

Nicole Bozeman
5701 Hemlock Ave. #B2
Gary, IN 46403

Samantha Aldridge, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204



Filed October 18, 2022

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 21736-AG22-0901-153

IN THE MATTER OF:

Nicole Bozeman
5701 Hemlock Ave. #B2
Gary, IN 46403

Respondent.

Producer License #: 3455525

Type of Agency Action: Enforcement

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Samantha Aldridge, pursuant to Indiana Code § 4-21.5-1 *et seq.* and 27-1-15.6 *et seq.*, files its Statement of Charges against Nicole Bozeman ("Respondent"), as follows:

FACTS

1. Respondent is a licensed resident producer holding license number 3455525. Respondent's license was issued by the Department on July 15, 2019.
2. Respondent's license is scheduled to expire on October 31, 2023.
3. On or about July 12, 2019, Respondent submitted a resident producer license application to the Department.
4. On said application Respondent answered "no" to the question on the application that asked, "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?".

5. Based on the information provided in the application, the Department issued a resident producer license to Respondent on or about July 15, 2019.
6. The Department discovered that on or about May 29, 2008, Respondent was charged with Perjury, a Class D Felony, and False Informing, a Class A Misdemeanor, under cause number 79D05-0805-FD-000319 in the Tippecanoe Superior Court 5, in the State of Indiana. This case is currently pending.
7. The Department discovered that on or about October 7, 2009, Respondent was convicted of Conspiracy to Possess with Intent to Distribute Heroin, a Felony, by the United States District Court. Respondent was sentenced to twenty-seven (27) months in the United States Bureau of Prisons. Respondent completed probation on April 10, 2012.

COUNT I

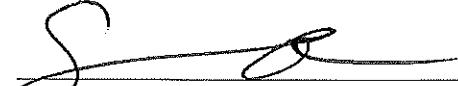
8. Averments 1 through 7 are incorporated fully as if set forth herein.
9. Respondent's conduct, as alleged herein, constitutes providing incorrect, misleading incomplete or materially untrue information in a license application and is cause for disciplinary action in accordance with Indiana Code § 27-1-15.6-12(b)(1) to include sanctions, fine, restitution and revocation of license.

COUNT II

10. Averments 1 through 7 are incorporated fully as if set forth herein.
11. Respondent's conduct, as alleged herein, constitutes having been convicted of a felony and is cause for disciplinary action in accordance with the Indiana Code § 27-1-15.6-12(b)(6) to include sanctions, fine, restitution and revocation of license.

WHEREFORE, the Indiana Department of Insurance, by counsel, Samantha Aldridge, requests that the Commissioner set this matter for a hearing, and/or issue an order permanently revoking Respondent's license.

Respectfully submitted,

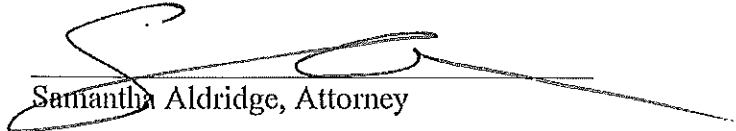

Samantha Aldridge, Attorney #35162-49

Samantha Aldridge
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following Respondent by United States first class mail, postage prepaid, this 18th day of October, 2022.

Nicole Bozeman
5701 Hemlock Ave #B2
Gary, IN 46403


Samantha Aldridge, Attorney